Building a Better

Automotive Marketplace

A Report Prepared by

The Automotive Working Committee

Alberta

92-01568/

REPORT ON THE AUTOMOTIVE INDUSTRY

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To: The Honourable Dennis Anderson

It gives me great pleasure and satisfaction to present this report from the Automotive Working Committee. The Committee has completed its exhaustive review of the automotive marketplace, and I believe that the mandate given to the Committee has been met.

Consumer protection has been the objective kept clearly in focus by the Committee throughout its deliberations. Contrary to public perception, the industry representatives have initiated many of the report's recommendations because of their firm belief in consumer protection. They support all of the report's recommendations. All Alberta automotive businesses will clearly benefit from the equal and fair marketplace this report envisions, where all automotive businesses compete by the same rules.

Great care was taken to incorporate public reaction and input into the report. Throughout the process, the Committee members regularly requested feedback from their constituents and from representatives of all automotive sectors affected by the Committee's discussions. In addition, public meetings were held in various centres around the province. These meetings gave all Albertans the chance to express their views about the discussion paper issued in February, and about the automotive marketplace.

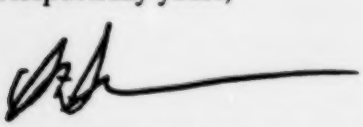
Through this process, we outlined four areas in which we believe changes can and should be implemented:

- licensing of automotive businesses
- consumer complaint resolution
- automotive education of both consumers and businesses
- compensation for financially disadvantaged consumers.

Changes in these areas can be make by delegating the responsibility to a self-financing, cooperatively-administered Automotive Regulatory Board, made up equally of consumer and business representatives. A model for such a board is outlined in the report, as are the recommendations that we believe should be implemented in the four areas.

In closing, I want to express my appreciation to the automotive associations, the consumer representatives, and the Committee members who have volunteered countless hours of their valuable time to this worthwhile project. I would also like to thank you and your department, and the other departments that assisted the Committee in achieving its mandate.

Respectfully yours,



D.A. (Don) Dixon
Chairman

Committee Statement

The Honourable Dennis Anderson, Minister of Alberta Consumer and Corporate Affairs, gave the Automotive Working Committee the opportunity to help automotive businesses and consumers design their own future regulations. We are very pleased to have been able to work as partners in this effort. Our report recommends positive changes in the management of regulation by merging the interests of consumers, automotive businesses, and government.

The recommendations in this report are leading the automotive marketplace and the interests of consumers into the 90's. We carefully listened to both consumers and businesses' concerns and recommendations about the marketplace. The majority of businesses accept the principles of delegated regulation but could not always agree on the details. They are willing to participate with consumers in regulating their marketplace.

Consumers' expectations in all areas are higher than ever before. Their demands for better disclosure are becoming louder. Consumers also want a fair and reasonable value for the money they spend in the automotive marketplace. Consumers told us that they want the automotive marketplace to be managed and regulated by a partnership of businesses and consumers. By playing an active role, consumers know that they will be better served.

We believe that the recommendations contained in this report will positively impact both automotive businesses and consumers. The future for the automotive marketplace must be built on the principles of responsible regulation, partnership, and education. The Committee believes that its report achieves this goal.

Mr. Donald Dixon

Mrs. Ruth Wood

Mrs. Betti Weiss

Mr. Keith Lancastle

Mr. Mike Shybunka

Mr. L.E. (Joe) Ostlund

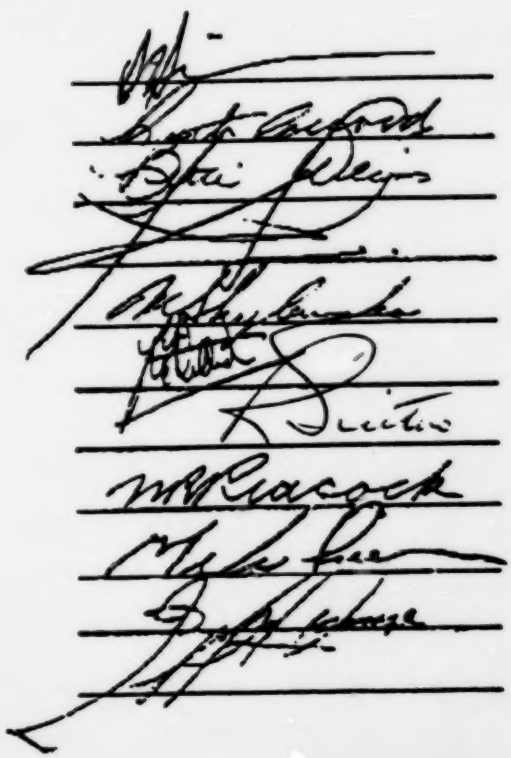
Mr. Robert Suitor

Mr. Morley Peacock

Mr. Marty Vellner

Mr. Dennis LaGrange

Mr. W. (Bill) Dekker



I. INTRODUCTION

The Committee Members

Your Automotive Working Committee is pleased to submit its report to you. The Committee is made up of a chairperson, two consumer representatives, and eight automotive industry representatives. The industry members represent four automotive industry associations:

- Automotive Service and Repair Association (Alberta)
- Motor Dealers' Association of Alberta,
- Recreation Vehicle Dealers Association of Alberta, and
- Used Car Dealers Association of Alberta.

The members of the Automotive Working Committee:

Mr. Donald Dixon	Chairperson
Mrs. Betti Weiss	Consumer representative
Mrs. Ruth Wood	Consumer's Association of Canada (Alberta), Past President
Mr. Mike Shybunka	Automotive Service and Repair Association (Alberta), Treasurer Owner - Stadium Automotive
Mr. Keith Lancastle	Automotive Service and Repair Association (Alberta), Executive Director
Mr. Robert Suitor	Motor Dealers' Association of Alberta, Chairman Owner - Southgate Volkswagon Ltd.
Mr. L.E. (Joe) Ostlund	Motor Dealers' Association of Alberta, President
Mr. Marty Vellner	Recreation Vehicle Dealers Association of Alberta, Vice-President Owner - Vellner Leisure Products (1980) Ltd.
Mr. Morley Peacock	Recreation Vehicle Dealers Association of Alberta, Executive Vice-President
Mr. W. (Bill) Dekker	Used Car Dealers Association of Alberta, President Owner - Prestige on White
Mr. Dennis LaGrange	Used Car Dealers Association of Alberta, member Owner - Northpark Motor & Recreation (1990) Ltd.

The Committee would like to thank Alberta Consumer and Corporate Affairs for the two people who helped the committee complete its report.

Mr. Harold Baker	Director Industry Standards
Mrs. Susan Barylo	Research Consultant

Committee Goals

The Committee examined the automotive marketplace and has made recommendations to accomplish the following five goals:

1. develop a regulatory board for the automotive industry,
2. establish improved licensing criteria for automotive businesses to be managed by the regulatory board,
3. design a complaint resolution system for consumer automotive complaints to be managed by the board,
4. have the board develop and manage a compensation fund for consumers, and
5. have the board develop and deliver automotive educational material to consumers and businesses.

Overview

The principles underlying this Report include the following:

- licensing certain types of businesses is necessary for both consumer protection and for enabling businesses to compete on a fair and level playing field;
- if businesses are licensed, a fair, efficient, and effective system of consumer complaint resolution is needed;
- a compensation fund controlled by a licensing body is fairer to consumers and businesses than other methods of consumer redress;
- educating both consumers and businesses about their rights and responsibilities in the automotive marketplace is extremely important; and
- delegating the responsibility for administering these principles to an independent body composed of both players in the marketplace--consumers and businesses--is the most effective means of administration.

The recommendations of the Automotive Working Committee advocate the licensing of all automotive businesses, automotive salespersons, and automotive leasepersons in Alberta. They also advocate the use of plain language contracts, the creation of an industry-sponsored compensation fund to protect consumers, and the need for licensed automotive businesses to adhere to certain standards of business operation.

There are five major areas of concern in the automotive marketplace:

- identification of all participants,
- requirements for entry into the marketplace,
- requirements for ongoing participation,
- information disclosure by businesses, and
- post-transaction protection for consumers.

First, all the businesses in the marketplace must be identified. Then fair standards must be met by the businesses. These standards include general requirements regarding integrity and trustworthiness, and specific requirements such as standards of knowledge for some participants. Disclosure of information includes both disclosure in transaction documents and disclosure in advertising. Buyers must know all pertinent information before their transactions and they are then less likely to be dissatisfied. Post-transaction protection includes such things as fair complaint resolution mechanisms, meaningful warranties, and availability of qualifty repairs.

Setting up standards of knowledge for participants in a marketplace assures the consumer of a minimum level of competence in those participants. It also helps reduce problems resulting from negligence or simple lack of awareness. An automotive business should be familiar with advertising standards, warranties, contract

terms and conditions, and consumers' rights and responsibilities.

The Committee found that consignment dealers have started up automobile consignment businesses with no assets and none of their own money invested. These businesses accept consumers' vehicles on consignment, sell the vehicles, and use consignment (consumer) money to operate the businesses, rather than safeguarding the consumer's money until the consumer is paid in full for the vehicle.

The private resale of personal vehicles by consumers is not an area of concern to the Committee; however, unfair practices do occur in this area too. There are persons who claim to be private citizens selling their own vehicle, but who are really doing it as a business, whether full-time or part-time. These persons are commonly known as curbers (this term also means persons who offer other automotive services from unlicensed facilities). The sale of vehicles by curbers offers the consumer no protection, and the activities of curbers create an uneven playing field for the business community. These unlicensed businesses do not meet the same standards that a licensed business must, and customers of unlicensed businesses experience more problems. Curb-side sales and services provide the consumer no protection.

The Committee intends to reduce or eliminate these unacceptable practices through the recommendations contained in this report.

II. MODEL OF AUTOMOTIVE REGULATORY BOARD

Delegation of Regulation

The Committee has developed a model for an independent organization, a regulatory board, to which the responsibilities for licensing, complaint handling, and education could be delegated by Alberta Consumer and Corporate Affairs. The cost of maintaining such an organization would be fully supported by licence fees. Persons representing both Alberta consumers and the many sectors of the automotive industry in Alberta would sit on this board. This regulatory board would be self-supporting, independent, and fair.

A. Creation of the Automotive Regulatory Board

1. The Automotive Working Committee recommends that a regulatory board be created for the automotive marketplace and that it be named the Automotive Regulatory Board.

2. The Automotive Regulatory Board will be made up of an equal number of consumers and representatives from licensed automotive businesses, plus a chairperson.

3. Under the Licensing of Trades and Businesses Act, Automotive Business Licensing Regulation, the responsibilities for licensing automotive businesses, for automotive complaint resolution, and for education on automotive issues are now administered by the department. Alberta Consumer and Corporate Affairs will delegate those responsibilities to the Automotive Regulatory Board.

B. Purpose of the Automotive Regulatory Board

1. The purpose of the Automotive Regulatory Board is to protect the marketplace and the public interest.

2. The Automotive Regulatory Board would carry out the functions delegated to it in a contract with the Director of Licensing of Trades and Businesses.

3. The Automotive Working Committee would like the Minister to delegate to the Automotive Regulatory Board the responsibility for the Unfair Practices Act and the Consumer Credit Transactions Act as they apply to the automotive industry.

4. The responsibilities of the Board are outlined below. They may include but are not limited to four areas.
   (a) Administering the licensing function by
      - issuing, renewing, suspending, or cancelling automotive business licenses, automotive salesperson's licenses, and automotive leaseperson's licenses.
      - maintaining a current register of each licensed automotive business, its automotive business agent, and its licensed automotive salespersons, and leasepersons.
      - ensuring that the persons who act as automotive business agents are qualified to do so.
      - ensuring that persons who are licensed as automotive salespersons and automotive leasepersons are qualified to be so.

- ensuring that automotive businesses are upholding the standards of conduct and standards of advertising laid down in the regulation.
- setting minimum equipment standards for automotive businesses.
- providing consumers with selected information about licensees.
- investigating the activities of curbers, unlicensed salespersons, and unlicensed leasepersons.
- undertaking enforcement of the regulation and prosecution of contraventions, where required.

(b) Administering the complaint resolution process.

(c) Managing the Automotive Consumers' Compensation Fund which will include
- collecting levies
- investing funds
- ensuring that the guidelines for claims and awards are followed
- providing for the regular audit of the fund
- using the investment income from the fund to provide for the administration of the fund and other specified purposes.

(d) Providing education and information about the automotive industry to both consumers and automotive businesses.

5. The Automotive Regulatory Board will try to help the provincial government achieve consistency in the automotive terminology and definitions used in legislation affecting the automotive industry.

6. The Automotive Regulatory Board will prudently, frugally, and wisely manage the monies entrusted to it by the licensees. An annual audited statement prepared by an independent auditor will be made available to the licensees upon request.

7. The Automotive Regulatory Board will hold public meetings to communicate with rural Albertans. These meetings will take place in Alberta centres where the population is under 75,000.

8. The Automotive Regulatory Board will publish an annual report. The annual report will contain audited financial statements for the operating funds and the compensation fund. The report also will summarize the number and type of complaints received by the Board.

C. Composition of Board

1. The Automotive Regulatory Board will be composed of the following:
   - a chairperson,
   - five consumer representatives, and
   - five industry representatives.

Chairperson

2. The Minister will appoint the chairperson of the Automotive Regulatory Board.

3. The chairperson must have an automotive industry background but must have no active, vested interest in an automotive business licensed by the Automotive Regulatory Board.

4. The Automotive Regulatory Board may recommend and suggest to the Minister the names of candidates that the Board believes are qualified to hold the chairperson's position.

Consumer Representatives

5. The Minister of Consumer and Corporate Affairs will appoint four persons to serve as the consumer members of the Automotive Regulatory Board, with representation from both urban and rural Alberta.

6. The Consumer Association of Canada (Alberta) will select one person to serve as a consumer member of the Automotive Regulatory Board.

Eligibility as Consumer Representatives

7. A consumer representative must have no active, vested interest in an automotive business licensed by the Automotive Regulatory Board.

Industry Representatives

8. The automotive industry will select the industry representatives for the Automotive Regulatory Board. The five industry representatives will be selected as follows:
   (a) two representatives from businesses licensed as automotive sales businesses or automotive broker businesses,
   (b) two representatives from businesses licensed as automotive repair and service businesses,
   (c) one representative from any other licensed automotive business category.

Eligibility as Industry Representative

9. A licensed automotive business owner who is an Alberta resident is eligible for nomination to an industry seat on the Automotive Regulatory Board.

10. **Owner** means a person who owns an automotive business through having a financial stake in it, either as
    (a) a proprietor
    (b) a partner in a partnership, or
    (c) a shareholder in a corporation.

11. Each nomination must be sponsored by four licensed automotive businesses.

12. If a person selected as an industry representative on the Board ceases to be an owner of an automotive business during the term, then that person must resign from the Board immediately.

13. The automotive business must hold an Automotive Regulatory Board licence in good standing.

Industry Selection Committee

14. The Automotive Regulatory Board will establish an Industry Selection Committee on which each active, incorporated, Alberta automotive association with province-wide representation will have one representative. The Committee will review the nominations for industry representatives on the Board, and select the persons to

fill the vacant industry seats on the Board.

15. The Industry Selection Committee must ensure
    (a) that the candidate is an owner of a licensed automotive business,
    (b) that the nomination is sponsored by four licensed automotive businesses,
    (c) that the nomination is accompanied by the candidate's resume,
    (d) that the candidate is qualified to hold the position for which they are nominated.

16. The Industry Selection Committee will name the required number of persons to fill the vacant positions of industry members on the Automotive Regulatory Board.

17. If more nominations are received than the number of vacant positions on the Board, the Industry Selection Committee will vote on the nominees. The nominations receiving the most votes will be the persons selected to fill the industry positions.

18. If fewer nominations are received than the number of vacant positions on the Board, the Industry Selection Committee will be responsible for ensuring that the vacant industry positions on the Board are filled.

Terms

19. The term of office for the Chairperson of the Automotive Regulatory Board will be three years.

20. The term of office for a Board member of the Automotive Regulatory Board will be three years.

21. A person may not serve more than two consecutive terms as Chairperson or as a Board member.

22. If Board members are unable to complete their terms, a qualified individual will be selected to hold the position for the balance of the term. The method of selection will depend on which Board position is vacant.

Committees

23. The Automotive Regulatory Board can form subcommittees in areas where specific knowledge is necessary, or where a specific task needs to be done such as
    (a) complaint resolution,
    (b) compensation fund issues,
    (c) industry selection, and
    (d) any other issues.

D. Location and Staffing of Board

1. The Automotive Regulatory Board will maintain easily-accessible offices and will employ personnel as it determines are necessary.

2. The head office of the Automotive Regulatory Board will be located near the centre of government, in Edmonton. The ARB will have subsidiary offices located in centres where offices are needed.

E. Bylaws

1. The bylaws of the Automotive Regulatory Board must be approved by the Director of Licensing of Trades and Businesses.

2. The bylaws do not become effective until that approval has been received.

3. Amendments to the bylaws also must be approved by the Director of Licensing.

F. Start-up of Board

1. The Automotive Working Committee's industry representatives will act as the Industry Selection Committee for choosing the first industry Board members.

2. When the first Automotive Regulatory Board members are selected, one consumer and one industry representative will serve a one-year term, two consumers and two industry representatives will serve a two-year term, and the final two consumers and two industry representatives will serve a three-year term. Thereafter, the persons selected for Board membership will serve for three-year terms.

3. When the Automotive Regulatory Board begins operations, there must be a kick-off news conference to inform the media about the Board's role and about the new 1-800 number for consumer inquiries. All members of the Board and of the Automotive Working Committee should be present at that news conference.

4. An effective public announcement campaign must
   (a) explain the role and powers of the Automotive Regulatory Board,
   (b) briefly outline the licensing process,
   (c) outline which automotive businesses are included, and
   (d) explain what consumer protection results from the new rules.

5. The Automotive Regulatory Board will draft samples of plain language contracts and forms within six months of the Board beginning operations. These samples will be available to automotive businesses upon request.

First Year Objectives

The Automotive Working Committee has high expections for the Board, as do consumers and the individual businesses that will be licensed by the Board. This report, the Committee, and the results of the public meetings in April and May have set some important objectives for the Automotive Regulatory Board to meet quickly. These include:

- Making sure that all businesses that should be licensed, in fact, become licensed.
- Making sure that licensed businesses meet the new regulation's standards before a license is issued.
- Vigilant enforcement of the regulation, and prosecution of both curbers and backyard mechanics, where necessary.
- Developing and implementing the examination and licensing of salespeople and leasepeople; ensuring that all salespeople and leasepeople are qualified to be licensed.
- Developing and coordinating effective consumer education regarding automotive issues.
- Careful monitoring of advertising both in print and electronic media.
- Effective handling of consumer complaints.
- Making sure that the regulations are equally enforced throughout the province both in urban and rural Alberta.

Budget

	YEAR 1	YEAR 2
Revenue (1st yr: 275/75, 2nd yr 250/75)		
Base licence (est. 4260 Licenses)	1 171,500	1 065,000
Additional categories (est. 1230)	92,250	92,250
Salespersons/Leasepersons (3350)	83,750	83,750
	1 347,500	1 241,000
(A) Human Resource Expenses *		
(* amounts shown are ceiling earnings)		
Staff: Edmonton	76,500	85,000
General Manager	49,500	55,000
Senior Investigator/Ass't Manager	49,500	55,000
Education/Public Relations Coordinator	81,000	90,000
2 Investigators	86,400	96,000
4 Clerical	9,000	9,000
1 Part-time staff		
Staff: Calgary	121,500	135,000
3 Investigators	21,600	24,000
1 Clerical		
Staff Training	35,000	27,450
Staff Benefits (10% of total)	49,500	54,900
Staff Subtotal	570,500	631,350
Contractors		
4 Investigators (2 Edmonton, 2 Calgary)	162,000	
Board honorariums		
Chairperson	10,475	10,475
5 Industry members	12,375	12,375
5 Consumer members	12,375	12,375
(A) Human Resources Subtotal	767,725	666,575
(B) Costs and Expenses		
Rent: Edmonton (2500 sq.ft.) @ $12/sq.ft.	30,000	30,000
Calgary (1000 sq.ft.) @ $12/sq.ft.	12,000	12,000
Travel: Staff	50,000	50,000
Contractors	24,000	–
Board members	7,500	7,500
Annual rural meetings	7,500	7,500
Stationery, postage	100,000	100,000
Forms & printing (licenses, education)	50,000	50,000
Telephones (including 2 1-800 numbers)	80,000	80,000
Legal and audit fees	30,000	30,000
Maintenance (offices and equipment)	15,000	15,000
Vehicle expense		
Staff: (6 units: maintenance, fuel, insurance)	60,000	60,000
Contractors: (4 units)	28,000	–
Office equipment - lease copiers, word processors, typewriters	25,000	25,000
Phone & fax equipment	12,000	12,000
Depreciation - computers and software (20%)	30,000	24,000
- office equipment	9,000	7,200
(B) Costs and Expenses Subtotal	570,000	510,200
(C) Capital Expense:		
computer hardware	150,000	
office furniture	45,000	
(C) Capital Subtotal	195,000	
TOTAL (A+B+C)	1,532,725	1,176,775
Less Depreciation	39,000	31,200
TOTAL CASH REQUIRED	1,493,725	1,145,575
Net Surplus/(Shortfall)	(146,225)	95,425

G. Enforcement Of The Regulation

a. The Board Members of the Automotive Regulatory Board are responsible to enforce Automotive Regulatory Board regulations. They will determine the licence status of businesses that contravene the Act or regulations.

b. To enforce the regulations, the Automotive Regulatory Board may direct its representative to investigate any matter regarding an automotive business whether unlicensed or licensed.

c. When an Automotive Regulatory Board representative learns that a licensee or an automotive business agent has contravened an Act or regulation, an investigation report detailing the contravention will be submitted to the Automotive Regulatory Board for their review.

d. The Automotive Regulatory Board will review the reports submitted by its investigators and will determine whether the Act or regulation has been contravened. The Board has the authority to
   (a) order the automotive business to resolve the complaint,
   (b) order the automotive business to rectify the contravention, or
   (c) order that the licensee appear before a hearing of the Automotive Regulatory Board to determine the future status of the licence.

e. The Automotive Regulatory Board will enforce its regulations equally throughout Alberta. All automotive businesses will operate by the same rules and will compete on a level playing field.
   Purpose
   Whether a business operates in a major city or a small rural centre, the Automotive Working Committee believes that the same standards should be upheld. The standards must be applied equally by the Board in all centres.

f. Unlicensed businesses convicted by the Automotive Regulatory Board and licensed businesses or persons who have their licenses suspended will be named in news releases issued by the Automotive Regulatory Board.

III. EDUCATION

Overview

In many ways, education is the most important part of consumer protection. Regulations are important, but regulation to the point of unfairness creates an imbalance in the marketplace. The average consumer does not know enough about the products and services available in the automotive marketplace to be on a level footing with the automotive business in consumer transactions. Neither does the average automotive business have enough knowledge about consumers' expectations regarding automotive transactions. The Committee has made recommendations that will increase the level of knowledge in both groups.

The first step in the educational process focuses on the development of basic marketplace skills. An understanding of how the marketplace works is developed, and consumers are informed of their rights and of what they can reasonably expect from businesses. The Automotive Regulatory Board must identify those Albertans who need consumer information the most. It will have to make sure those persons get the information and make sure the information is understandable and in plain language. The education aimed at the business community must focus on helping businesses understand the consumer viewpoint. It must make them aware of the problems consumers experience. It must help them understand their legislated responsibilities to consumers. Through education, the Automotive Regulatory Board will help create a fairer marketplace.

Providing the necessary education for consumers and businesses will be very expensive. To expect the licensing fees to fully support the education program that the Automotive Working Committee hopes will be in place someday is impractical. The funding for this future education will be discussed in the section on the Compensation Fund.

A. Information Available

1. Information will be made available to consumers by a toll-free telephone line or in person at an Automotive Regulatory Board office. This information will include
   (a) the status of the licence of an automotive business
   (b) the complete legal name of the business
   (c) the mailing address and location of the business
   (d) the name of the automotive business agent
   (e) the status of the licence of an automotive business salesperson or leaseperson
   (f) the name of the business that sponsored the salesperson's licence or leaseperson's licence
   (g) an explanation of the automotive business'ss responsibility to consumers
   (h) referrals to other sources of information about automotive matters
   (i) referrals to other agencies that can provide the information or help not provided by the Automotive Regulatory Board.

2. A library of resource material on the automotive industry will be available at the Automotive Regulatory Board head office. It will contain but not be limited to the following:
   (a) books on the automotive industry,
   (b) flat-rate repair information,

(c) manufacturer's information,
(d) tip sheets,
(e) video tapes explaining the different types of repairs
(f) a video of a "mock" arbitration so both the business and consumer can see what happens.

3. The Automotive Regulatory Board will do market studies to assess the automotive education needed by consumers. Each automotive association should assess what education material is necessary for their sector and work with the Board to provide it.

4. The Automotive Regulatory Board will set up a "Tips Line", an interactive telephone information line. The information line will instruct consumers on automotive issues such as how to buy a vehicle, how to choose automotive service and repairs wisely, a consumer's rights when dealing with a licensed business, and so on.

5. A consumer toll-free inquiry number to the Automotive Regulatory Board will be available.

6. The Automotive Regulatory Board will provide printed consumer guides on automotive issues for consumers. These educational brochures will be available from the Board and supplied to the interested parties that wish to give them out.

7. The Automotive Regulatory Board will develop presentations about the automotive industry and its various sectors to present to outside groups such as high schools, continuing education classes, and so on.

B. Important Automotive Issues

1. The Automotive Regulatory Board must educate consumers about several important issues. These include
   (a) the benefits of patronizing licensed automotive businesses, and the risks to consumers if they do not;
   (b) that the Board will listen to both sides of the story because the consumer is not automatically right;
   (c) a plain language explanation about the provisions of credit group insurance and extended warranties;
   (d) the importance of requesting a copy of all work orders when service work (including warranty work) is done;
   (e) the meaning of disclosure, and clarification on what constitutes disclosure regarding a vehicle's prior history, condition, etc.;
   (f) a consumer's right to go to the repair business of their choice even when an insurance company pays for repairs;
   (g) the meaning of deposits, and an emphasis that deposits are not usually returned since placing a deposit is a contract.

2. The Automotive Regulatory Board must educate consumers about information they should know before buying a used vehicle. Especially important are tips such as
   (a) encouraging consumers to ask sellers about the prior history of a vehicle,

(b) advising consumers to be wary about buying a vehicle which has a registration slip dated less than three weeks ago,
(c) advising consumers to make sure their vehicle is insured even when in the custody of an automotive business,
(d) explaining to consumers why a one-owner vehicle is not necessarily better than a multiple-owner vehicle.

3. The Automotive Regulatory Board must educate consumers to look for the business'ss Automotive Regulatory Board licence number in all advertisements. The Board must inform them about the possible results of buying from an unlicensed seller or a private seller.

4. The Automotive Regulatory Board must educate consumers about the purpose of the Compensation Fund, and that it is not meant to cover disputes about the quality of vehicles or the quality of repair or service work.

IV. LICENSING

Overview

The main purpose of licensing is to provide greater consumer protection than is possible if businesses are not licensed. Licensing is also a mechanism to ensure that businesses compete on a level playing field. The Committee evaluated where in the marketplace consumers were at risk and whether licensing automotive businesses would protect them. The Committee decided upon the requirements a business should meet to get a licence, and the standards a business must uphold to maintain the license. The Committee then decided which personnel in the automotive industry interact with consumers, whether they should meet certain qualifications or standards, and whether licensing those people would provide consumer protection.

When a third party issues a licence to a business, consumers can be optimistic about two things--that the business meets certain basic standards, and that the business deals with consumers fairly. When a business needs a licence to operate, that licence also becomes a tool of enforcement. Businesses that do not follow the basic standards can be taken to task. Their right to operate their business (their licence) can be suspended or withdrawn in the public interest. The authority that issues the licence must ensure that having the licence means something.

Regulations are merely the legal expression of the ethics by which fair businesses operate every day. The difficult task of any licensing program is ensuring that all businesses operate by the same basic standards.

A. Definitions Of Terms

Overview

Words have different meanings for different groups. In this report, the Committee used some terms very specifically. Please refer to the following definitions frequently throughout your review of this report.

1. **Arbitration** is a process in which two or more parties refer a dispute to an independent arbitrator and agree to be bound by the arbitrator's decision. The decision of an arbitrator (called the award) is binding upon both of the parties if the arbitration was conducted according to the Alberta Arbitration Act. The arbitrator's award can then be enforced as a judgment or order of the Court of Queen's Bench.

2. **Automotive business** means all businesses in the automotive marketplace. There are several categories of automotive business:
   (a) **Automotive sales business (new vehicle)** means a business that sells new motor vehicles or new recreation vehicles to consumers.
   (b) **Automotive sales business (used vehicle)** means a business that sells used motor vehicles or used recreation vehicles to consumers.
   (c) **Automotive broker business** means a business that sells motor vehicles or recreation vehicles to other businesses.
   (d) **Automotive leasing business** means a business that is the lessor for leases of motor vehicles or recreation vehicles.
   (e) **Automotive repair and service business** means a business that repairs, services, conditions, or inspects motor vehicles or recreation vehicles.

(f) **Automotive recycling business** means a business that recycles or dismantles motor vehicles or recreation vehicles.

(g) **Automotive auction business** means a business that auctions motor vehicles or recreation vehicles.

(h) **Automotive salvage business** means a business that sells damaged motor vehicles or recreation vehicles as salvage.

3. **Automotive business agent** means an agent named by the automotive business in its licence application or licence renewal to represent the business in all matters related to its automotive business license.

4. **Automotive salesperson** means an individual who is employed by an automotive sales business or an automotive broker business to sell the goods or services of that business.

5. **Automotive leaseperson** means an individual who is employed by an automotive leasing business to lease the goods or services of that business.

6. **Complaint** means a formal allegation by a consumer that a licensed business has wronged the consumer.

7. **Consumer** means a person who contracts to receive goods or services that are partly or wholly for personal use.

8. **Curber** means a business that sells, repairs, services, dismantles, or recycles motor vehicles from a location that is not approved by the municipality and the Automotive Regulatory Board. The term **curber** refers to both curbers who sell vehicles, backyard mechanics who repair and service vehicles, and persons who dismantle and recycle vehicles, all from premises not approved by the municipality and the Board.

9. **Lessor** means an automotive leasing business with whom the customer originally writes the leasing contract.

10. **Licence** means an automotive business licence issued under the Automotive Business Licensing Regulation and includes a renewal licence.

11. **Mediation** is a process in which two or more parties refer their dispute to a mediator. A mediator will help those parties reach a mutually-agreeable settlement. A mediator is a facilitator. The mediator's role is to help the parties identify the issues, and to help them talk and negotiate.

12. **Motor vehicle** means
    - an automobile
    - a truck under 7,500 kg. gross vehicle weight (g.v.w.),
    - a motorcycle,
    - a recreation vehicle,

    and any vehicle that can be licensed to be driven on Alberta roads, except
    - trucks more than 7,500 kg. (g.v.w.),
    - power bicycles, and
    - off-highway vehicles.

13. **Owner** means a person who owns an automotive business through having a financial stake in it, either as
    (a) a proprietor
    (b) a partner in a partnership, or
    (c) a shareholder in a corporation.

14. To use **plain language** means
    (a) to use words with common meanings;
    (b) to arrange material in a logical order;
    (c) to divide the document into manageable chunks;
    (d) to lay out the document clearly; and
    (e) to choose lettering that is easily legible.

15. **Recreation vehicle** means a portable dwelling unit that is designed to be used as accommodation for travel, recreation, or vacation purposes, and that
    a) forms part of a motor vehicle such as a van conversion or motorhome, or
    b) is placed on the chassis or body of a motor vehicle, such as a truck camper, or
    c) can be transported on its own chassis and running gear by towing or other means, such as a travel trailer, fifth-wheel trailer, or tent trailer.

16. **Restrictions and disclaimers** are statements used by the business to control the number of situations in which the business has a liability to the consumer.

B. Automotive Business

Licenses

1. An automotive business must have a licence from the Automotive Regulatory Board.

   Purpose

   Consumers expect that the same standards will be maintained by all automotive businesses, and licensing is the method by which marketplace standards can be enforced.

2. Educational institutions that both teach automotive service and repair and have the necessary equipment are exempted from the licensing requirements of the Automotive Regulatory Board.

3. Liquidators and trustees in bankruptcy are exempted from the application of Licensing of Trades and Businesses Act and the Automotive Business Licensing Regulation.

   Purpose

   Occasionally liquidators and bankruptcy trustees must sell vehicles for their clients. Since they are not in the business of selling vehicles, the Committee believed that they should be excluded from the application of this regulation.

4. The term of an automotive business licence will be twelve months.

5. An automotive business will be licensed in categories according to the types of goods and services offered by the business. Each category will be shown on the licence.

6. An automotive business will be licensed according to the automotive business categories. When a person, partnership, or corporation offers the same category of automotive business at more than one location, the person will need a separate licence for each separate location or mobile facility at which the same category is offered.

   Purpose

   No licensing advantage can exist for multi-location businesses over small businesses. The same standards and licence fees will be expected of each location at which consumers can transact business. At the same time, the Committee does not want to penalize a business for being unable to open another category due to lack of space at the original location.

7. The automotive business licence must be posted in a conspicuous public place at the automotive business.

   Purpose

   The licence means specific protection for the consumer and must be visible to any consumer who deals with the business.

8. A license cannot be transferred by one automotive business to anyone operating another automotive business.

9. When an automotive business applies for its first licence under the Automotive Regulatory Board, the business must pay a non-refundable compensation fund levy to the Automotive Consumers' Compensation Fund.

10. An automotive business will not be issued a licence if the compensation fund levy is unpaid.

Requirements for Licensing

11. In its application for a licence, the automotive business must appoint an automotive business agent for each business location. The automotive business may name an alternate to act when the appointed automotive business agent is not there.

    Purpose

    The business must identify the person who will have the knowledge and the authority to resolve all matters regarding its licence. A separate person may be named for each location, or the same person may be responsible for several locations. It must be clear to the Automotive Regulatory Board who the agent is for each automotive business location.

    An automotive business is responsible to the Automotive Regulatory Board for the conduct of the business and its employees, for the handling of consumer complaints, and for dealing with inquiries from the Board. An automotive business agent will have the authorization of the business to resolve the matters in question for the business.

12. An automotive business must have municipal approval for each location or mobile facility at which it operates.

    Purpose

Local municipalities set their own rules for land use, zoning, and businesses operating within their boundaries. An automotive business must follow the requirements of both the municipality and the province.

13. An automotive business must fully describe in its licensing application the types of business to be conducted at each location.

14. When an automotive business begins to operate in a different category not described in its initial licence application, it must notify the Automotive Regulatory Board immediately to ensure that the business is correctly licensed.

15. An automotive business must agree in its licence application and in any later renewal of the licence to follow the standards of conduct and standards of advertising contained in the regulation.

16. In its licence application an automotive business commits itself to enter arbitration with a consumer when the consumer has chosen to resolve an otherwise unresolved complaint through the Automotive Regulatory Board's arbitration process.

17. An automotive business must prove that garage insurance coverage--(specifically Standard Policy Form 4, (a), (b), and (e)--is in effect for its business location before a license is issued or renewed. The business must maintain that insurance coverage for the term of the licence as a condition of holding the licence.

Purpose

A business that carries appropriate insurance coverage benefits consumers. The Committee believes that the minimum acceptable coverage is the standard garage automobile policy.

A standard garage automobile policy indemnifies the business and its employees against

- liability for loss arising from the ownership or operation of any vehicles owned by the business, and
- liability for loss arising from the operation of customers' vehicles.

The garage policy covers damage caused by test driving the customer's vehicle. It covers the customer's automobile for collision and specified perils while it is in the care or control of the automotive business. The business's vehicles are covered also, for collision as well as comprehensive and specified perils. A garage insurance policy also usually specifies the maximum number or value of customers' automobiles to be covered on the policy.

To be valid, the insurance policy must be issued by the insurance company for the exact type of business or businesses being conducted by the policy holder.

18. An automotive business must employ the qualified journeymen tradespeople or indentured apprentices appropriate to the work being done. These requirements are outlined in the Apprenticeship and Industry Training Act.

Purpose

Only qualified individuals may be employed in certain automotive trades in Alberta. The criteria are laid out in the Apprenticeship and Industry Training Act and its regulations. Consumers are protected when automotive repair and service is performed only by qualified persons.

19. Each applicant for a licence and each licensee must have, on the business site or in the mobile business facility, the equipment and materials needed for that type of automotive business. The minimum equipment and materials needed to operate the following automotive repair and service businesses are:

Repair Business - General Motor *
- Current repair and labour information
- Engine analyzing equipment
- Waste oil and fluid containment

* Requires a licensed technician

Repair Business - Transmission *
- Waste oil and fluid containment
- Current repair and labour information

* Requires a licensed technician

Repair Business - Tune-up *
- Engine analyzing equipment
- Current repair and labour information

* Requires a licensed technician

Repair Business - Radiator
- Waste antifreeze and acid containment
- Radiator test tank

Repair Business - Tire *
- Tire changing equipment
- Tire test tank
- Wheel balancing equipment
- Tire repair equipment

* Requires a licensed technician

Repair Business - Auto Electric *
- Electrical testing equipment
- Current repair and labour information

* Requires a licensed technician

Repair Business - Alignment *
- Wheel alignment equipment
- Balancing equipment
- Current repair, labour and specification information

* Requires a licensed technician

Repair Business - Brake *
- Current repair and labour information
- Brake part machining equipment
- Measuring equipment capable of measuring wear on brake parts
- Waste fluid containment

* Requires a licensed technician

Repair Business - Frame *
- Four-point anchoring system capable of holding vehicle during structural pulls
- Pulling equipment
- Measuring equipment capable of measuring structural dimensions including upper body dimensions
- Current frame dimension statistics

* Requires a licensed technician

Repair Business - Air-Conditioning
- Air-conditioning test equipment
- Freon recovery unit
- Current repair and labour information

* Requires a licensed technician

Service Business - Lubrication
- Waste oil containment

Repair Business - Collision *
- A manufactured paint spray booth that meets the requirements of the current fire code, Occupational Health and Safety (OH&S) standards, and municipal authority standards.
- MIG (metal inert gas) welding equipment
- A four-point anchoring system to hold the vehicle in a stationery position during structural and body pulls, the system to be suitable for the type of vehicles being repaired
- A measuring device suitable for measuring unibody structural dimensions, including the upper part of the body
- Current frame dimension statistical information.
- Current collision estimating information

* Requires a licensed technician

Repair Business - Recreation Vehicle *
- Gas tester manometer, battery tester, board tester - fenwell, amp meter, multi-tester
- Floor jack, jack stands, ladders
- Air compressor
- Bench grinder, router
- Cut-off saw, reciprocating saw
- 1/2" drill, riveter, air staple gun
- Waterline crimping tool

* Requires a licensed technician

Repair Business - Automotive Glass
- Power cut-out knife
- Hand cut-out knife
- Hook tools and filler tools
- Belt sander or hand-held arrise machine
- Proper waste disposal system
- Heated facility, where necessary

Repair Business - Motorcycle *
- current repair and labour information
- engine analyzing equipment
- waste oil containment

* Requires a licensed technician

Purpose

Certain basic equipment and materials are necessary to do proper automotive service and repair on today's vehicles. When a business offers a product or service to the public, the consumer must be assured of a minimum yet safe level of product or service.

20. An automotive business must provide all agreements, contracts, and warranties used in business transactions in plain language. The Automotive Regulatory Board will provide its licensees with samples of contracts in plain language.

21. An automotive business may be required to file financial information in a suitable form with the Automotive Regulatory Board if the business is under investigation.

Purpose

When an automotive business gets a licence, the Board and the Compensation Fund become liable for that business's transactions with consumers. The Board needs to be able to look at a business's financial stability so that the Board and the Fund are not put in unnecessary jeopardy.

22. The following types of automotive businesses must maintain a trust account in a financial institution in Alberta:
    - an automotive auction business
    - an automotive sales business engaged in sales by consignment.

23. The automotive sales business engaged in sales by consignment and automotive auction businesses must show the name and address of the financial institution where the trust account is located in their licence applications and renewals. The business must prove that the trust account has been set up before a licence is issued or renewed.

24. Each notice of Automotive Regulatory Board licence renewal will include the question "do you want the ARB's annual financial report mailed to you?" All licensees who answer "yes" will be mailed the most recent ARB annual report.

Licence Fees

25. There are eight groups of automotive businesses. In each group there are several classes. Applicants must write down which classes apply to their business.
    (a) Automotive Sales Business (new vehicles)
        - new cars and light trucks
        - new recreation vehicles
        - new motorcycles

    (b) Automotive Sales Business (used vehicles)
        - used cars and light trucks
        - used recreation vehicles
        - used motorcycles

(c) Automotive Broker Business - sells **ONLY** to other businesses
- new cars and light trucks
- new recreation vehicles
- new motorcycles
- used cars and light trucks
- used recreation vehicles
- used motorcycles

(d) Automotive Leasing Business
- new cars and light trucks
- new recreation vehicles
- new motorcycles
- used cars and light trucks
- used recreation vehicles
- used motorcycles

(e) Automotive Auction Business
- new cars and light trucks
- new recreation vehicles
- new motorcycles
- used cars and light trucks
- used recreation vehicles
- used motorcycles

(f) Automotive Salvage Business
- damaged and written-off
- cars
- light trucks
- RV's
- motorcycles.

(g) Automotive Repair and Service Business
- motors and engines
- transmission
- tune-up
- radiator
- tire
- auto electric
- alignment
- recreation vehicle
- motorcycle
- brakes
- frame
- air-conditioning
- lubrication
- automotive glass
- body and paint
- detailing
- upholstery
- stereo and accessories

(h) Automotive Recycling Business
- dismantles or recycles motor vehicles or recreation vehicles

26. The annual licence fee for an automotive business will be
    - in the first year, $275 for the primary category of business, plus $75 for each additional category in which a licensee operates,
    - in each year after, $250 for the primary category, and $75 for each additional category.

27. If licence fees do not provide enough revenue to operate the Automotive Regulatory Board, the Board may apply to the Minister of Consumer and Corporate Affairs to levy an additional fee on each licensee to provide enough operating funds. The Minister's approval is required before an extra fee is levied.

Licence Becomes Invalid

28. A license becomes invalid when the automotive business is no longer carrying on business.

29. When an automotive business ceases to carry on business, or when the licence is cancelled or suspended, the business must return the licence immediately to the Automotive Regulatory Board.

30. When automotive salespersons or leasepersons are no longer employed with the business which sponsored them, their licenses must be returned immediately to the Automotive Regulatory Board.

C. Automotive Business Agent

Who Qualifies

1. **Automotive business agent** means an agent named by the automotive business in its licence application or renewal to be responsible for the business in all matters related to its automotive business license.

2. To qualify as an automotive business agent for a licensed automotive business, a person must have a knowledge and understanding of the following as each applies to their business:

	Automotive Sales Businesses	Automotive Broker Businesses	Automotive Leasing Businesses	Automotive Repair & Service Businesses	Automotive Recycling Businesses	Automotive Auction Businesses	Automotive Salvage Businesses
Automotive Business Licensing Regulation	•	•	•	•	•	•	•
Unfair Trade Practices Act	•	•	•	•	•	•	•
Consumer Credit Transactions Act	•	•	•			•	
Apprenticeship & Industry Training Act	•	•	•	•	•	•	
Public Auctions Act						•	
Basic Contract law	•	•	•	•	•	•	•
Sale of Goods Act	•	•	•	•	•	•	•
Personal Property Securities Act	•	•	•	•	•	•	•

The Automotive Regulatory Board will provide plain language summaries of the relevant parts of these Acts for use by automotive business agents.

Responsibilities of Agent

3. Before the Automotive Regulatory Board will approve a licence application, the person named by the business for the role of automotive business agent must
   (a) qualify for the role of automotive business agent, and those qualifications will be specified by the Automotive Regulatory Board
   (b) have agreed in the licence application or renewal to follow the standards of conduct and standards of advertising established for automotive businesses in the regulation.

4. The person appointed as the automotive business agent may only act in that capacity for the automotive business which appointed him or her.

5. The automotive business agent must notify the Board of changes at the business related to the licence and must make sure that all qualifications are met.

6. The automotive business is responsible for the actions and conduct of the automotive business agent in all matters related to its automotive business licence.

   Purpose

   The business and the agent are jointly responsible to the Board to ensure that the other follows the rules in the matters related to the automotive business licence.

7. The automotive business agent must notify the Automotive Regulatory Board immediately when the automotive business stops operations.

8. The automotive business agent must notify the Automotive Regulatory Board immediately when he or she leaves the employ of the automotive business for which he or she is the agent.

No Licence Fee

9. The appointment of an automotive business agent is part of the procedure for obtaining the business licence. There is no separate licence issued for the agent, nor is there an additional licence fee charged.

D. Automotive Salespersons and Leasepersons

Salesperson

A motor vehicle or recreation vehicle is the second most expensive purchase that a consumer makes. Vehicles have increased substantially in price in the past twenty years and have also changed dramatically in technological sophistication. A salesperson is the person from whom consumers get most of their information about their planned purchase.

Salespersons need to understand their legal and ethical responsibilities to consumers to serve them well. The Committee believes that requiring salespersons to know basic standards of conduct and advertising is necessary for consumer protection. Licensing salespeople in the automotive industry will achieve a higher level of consumer protection and professionalism.

1. An **automotive salesperson** means an individual who is employed by an automotive sales business or automotive broker business to sell motor vehicles or recreation vehicles.

2. A person may not act as an automotive salesperson in Alberta, or hold themselves out whether directly or indirectly as an automotive salesperson, unless that person is
   (a) qualified as an automotive salesperson,
   (b) employed and sponsored as a salesperson by a licensed automotive business, and
   (c) licensed as a salesperson for the business that employs him.

Purpose

Licensing automotive salespersons will ensure that they have been tested on their knowledge of trade and advertising regulations in this province.

3. The application to be licensed as an automotive salesperson of the automotive business must be sponsored by the automotive business agent of the business for whom the salesperson works.

4. The automotive business agent must register sponsorship of an automotive salesperson with the Automotive Regulatory Board.

5. The licence of the salesperson is issued jointly to the automotive business for which the salesperson works and the salesperson.

Purpose

The automotive business agent is responsible for the conduct of all personnel employed by the business.

Since the automotive business and business agent are jointly responsible for the conduct of the salespersons, the licence will be issued jointly to the automotive business and the salesperson. The licence means specific protection for a consumer in the consumer's dealings with a salesperson. The cost of this consumer protection is borne mostly by the business in its compensation fund levy and licence fees; therefore, the business is responsible for the actions of its employees and representatives.

6. The Board will keep a register of the sponsorship of each automotive salesperson.

Leaseperson

The automotive leaseperson is the person from whom consumers get most of their information about the conditions of a vehicle lease. A leaseperson must know certain basic standards of conduct and advertising to serve the consumer well. The licensing of leasepersons is as important as licensing salespersons.

7. An **automotive leaseperson** means an individual who is employed by an automotive leasing business to lease motor vehicles or recreation vehicles.

8. A person may not act as an automotive leaseperson, or hold themselves out whether directly or indirectly as an automotive leaseperson in Alberta, unless that person is
   (a) qualified as an automotive leaseperson,
   (b) employed and sponsored as a leaseperson by a licensed automotive business, and
   (c) licensed as an automotive leaseperson for the business that employs him or her.

Purpose

Automotive leases are complicated contracts. Consumers entering lease contracts are not always aware of their obligations and liabilities under the contract. The licensed leaseperson who knows proper trade and advertising practices will treat consumers more fairly.

9. The application to be licensed as an automotive leaseperson must be sponsored by the automotive business agent of the automotive business for whom the leaseperson works. Where the leaseperson represents two businesses who have

an agency agreement, the leaseperson's licence must be co-sponsored by both business agents.

10. The automotive business agent must register sponsorship of an automotive leaseperson with the Automotive Regulatory Board.

11. The licence of the automotive leaseperson is issued jointly to the leaseperson and the automotive business for which the leaseperson works.

12. The Board will keep a register of the sponsorship of each automotive leaseperson.

Requirements for Licensing

13. A person who wishes to work as an automotive salesperson or leaseperson must write and pass a qualifying examination. The person must become employed as an automotive salesperson or leaseperson within 24 months of passing the exam or must write another qualifying exam.

14. In the application for a licence as an automotive salesperson or leaseperson and in each annual renewal, a person must
    (a) be qualified to hold the licence, and
    (b) agree to abide by the standards of conduct and standards of advertising established for automotive businesses in the governing regulation, and
    (c) pay the applicable fee.

15. A person who had been licensed by the Automotive Regulatory Board as an automotive salesperson or leaseperson but then leaves the industry may be exempted from the examination requirement if they become reemployed as an automotive salesperson or leaseperson within 24 months.

16. An automotive business agent must notify the Automotive Regulatory Board immediately when an automotive salesperson or leaseperson stops working for an automotive business. The automotive business agent also must return the salesperson or leaseperson's licence to the Automotive Regulatory Board.

    Purpose

    If a salesperson is dismissed by the automotive business, the salesperson must not retain any kind of licence in his possession that might mislead consumers. Nor should the automotive business be responsible for transactions that a salesperson might enter into on his own time. The salesperson is only authorized to sell motor vehicles as a representative of a licensed automotive business, not on his own account.

Licence Fee

17. The fee for an automotive salesperson or automotive leaseperson licence will be $25 per year.

18. A person who is employed by an automotive business as both an automotive salesperson and leaseperson will only pay one licence fee each year.

19. The fee for transferring the sponsorship of the licence to a new employer will be $25.

E. Qualifying Examinations

1. The applicant for a licence as an automotive salesperson or automotive leaseperson must first pass a qualifying exam.

2. The fee for the qualifying examination will be $75 per sitting.

3. A person may write the qualifying exam more than once, but must pay the examination fee each time.

   Purpose

   A person may attempt the exam as often as he or she wishes. Charging an exam fee each time will ensure that the candidate is serious about obtaining the qualifications and will streamline the administrative procedures.

4. The pass mark for the qualifying examination is 60%.

5. The Automotive Regulatory Board will offer the qualifying examination monthly.

6. If a licence has been cancelled, suspended, or more than 24 months has passed since the licence expired, the applicant for a salesperson's or leaseperson's licence must write the qualifying examination again.

7. The Automotive Regulatory Board may direct that an automotive salesperson or leaseperson write the qualifying examination as a prerequisite for the continuation or renewal of any licence.

   Purpose

   If the Automotive Regulatory Board is concerned about the performance of a salesperson or leaseperson, the Board must be able to direct that person to rewrite a qualifying exam.

F. Grandfathering Provisions

Licensing of automotive businesses is administered now by Alberta Consumer and Corporate Affairs. The businesses licensed under the present regulation will need to be licensed under the new regulation. That process should be as easy as possible. The Automotive Working Committee presents a way to transfer the licensing responsibility to an Automotive Regulatory Board.

Automotive Business

1. Each Alberta automotive business must do four things within 30 days of the date the Automotive Regulatory Board takes over the responsibility for licensing. The business must
   (a) forward a completed licence application to the Automotive Regulatory Board
   (b) comply with the licensing requirements for each category of business in which it operates,
   (c) pay the compensation fund levy, and
   (d) pay the licence fee.

2. The Automotive Regulatory Board will draft sample plain language documents. An automotive business has 12 months after those sample documents are available to make sure the agreements, contracts, and warranties used in its business transactions are in plain language.

First Automotive Business Agent

3. An automotive business will appoint its first automotive business agent within 30 days after the Automotive Regulatory Board takes over licensing.

First Automotive Salespersons and Leasepersons

4. An automotive business that gets a licence within the first 30 days after the Automotive Regulatory Board takes over licensing will be allowed to choose
   (a) the automotive salespersons
   (b) the automotive leasepersons

   that it will sponsor under its first Automotive Regulatory Board licence.

5. The persons chosen as automotive salespersons or leasepersons under the first licence are exempted from the examination necessary under the new regulation.

6. The persons chosen as automotive salespersons or leasepersons under the business's first licence may only act in the capacity for which they were selected and only for the automotive business which selected them.

7. If a person selected on a business's first licence as salesperson or leaseperson changes jobs to work at another automotive business, that person must pass the examination specified in the new regulation.

8. To avoid financial hardship for a salesperson or leaseperson when they change jobs, the Automotive Regulatory Board may authorize the salesperson or leaseperson to work under the conditional sponsorship of the new employer's automotive business agent. The authorization from the Board is conditional on the salesperson or leaseperson passing the next scheduled qualification examination.

G. Curbers and Backyard Mechanics

There are individuals in the automotive marketplace who advertise by classified ads and other advertisements; who do not operate licensed businesses; and who sell, service, repair, recycle, or dismantle vehicles from a private residence or other unlicensed location. They are known as curbers. A curber operates an unlicensed automotive business.

Curbers exist for one or all of the following reasons:

(a) to gain an advantage over the purchaser of a vehicle by representing themselves as private individuals rather than businesses

(b) to gain an advantage over the purchaser of an automotive repair or service
   - by representing themselves as discounters or private individuals rather than businesses
   - by representing themselves with more qualifications than they actually have

- by misrepresenting the quality of repair or service that they can provide

(c) to avoid paying taxes
(d) to avoid paying for licenses and having to follow licensing standards.

Curbers are the bane of the automotive industry. Curbers bear few, if any, of the costs of operating a legitimate business since they do not pay business or income taxes, are not properly licensed, and are not operating from proper facilities according to the zoning bylaws of the municipality. In a transaction with a curber, the consumer is at an immediate disadvantage. The curber begins the transaction on a false basis by representing himself as a private individual when he really is in business.

An informal survey of classified ads in the Edmonton area was conducted by the Motor Dealers' Association of Alberta for the Committee. Ads were monitored on six different days over a two-week period from August 2 - 16, 1991. Twenty-one telephone numbers advertising three or more cars on a single day were counted. Five numbers were for licensed dealers and 16 could not be identified.

1. **Curber** a business that sells, repairs, services, dismantles, or recycles motor vehicles from a location that is not approved by the municipality and the Automotive Regulatory Board. The term **curber** refers to both curbers who sell vehicles, backyard mechanics who repair and service vehicles, and persons who dismantle and recycle vehicles, all from premises not approved by the municipality and the Board.

2. The Automotive Regulatory Board will use the following methods to make sure curbers are licesned or stopped:
   (a) Set up a hot-line similar to Crime Stoppers, such as a T.I.C. line (or "Turn in a Curber" line); tips could be phoned in anonymously and rewards for tips could be given.
   (b) Cooperate with municipalities regarding their business licenses and Revenue Canada regarding income tax and GST to monitor automotive business activities.
   (c) Go through classified ads and other automotive advertisements to cross-reference and investigate phone numbers which appear frequently.
   (d) Negotiate sharing access to the Motor Vehicles Division (MVD) database regarding vehicle registrations and dealer plates.
   (e) Develop a sales permit system for private vehicle sales, where MVD would only register a vehicle when the applicant produced either the authorized sales permit or the bill of sale from a licensed automotive business.
   (f) Through networking with government departments such as the Motor Vehicles Division, and the Trade Certification Branch.
   (g) Through auction sales records.

3. The Automotive Regulatory Board must enforce the licensing regulations against curbers. The process of enforcement from prompt investigation, to prosecution, to the obtaining of restraining orders where necessary, must move quickly.

H. Inspection Of Automotive Businesses

1. The Automotive Regulatory Board may direct its representative to inspect an automotive business facility to ensure compliance with Automotive Regulatory Board regulations.

2. When an inspection is completed, a copy of the inspection report and the resulting recommendations must be left with the automotive business agent.

3. The Automotive Regulatory Board will review the inspection report to ensure compliance with the regulations.

4. If deficiencies are revealed by an inspection, a licensee will have sixty days to correct those deficiencies, or a lesser period as specified by the Automotive Regulatory Board.

I. Hearings

1. If the Automotive Regulatory Board orders that a licensee appear before a hearing, then it must
   (a) give fifteen days notice of the hearing,
   (b) tell the licensee of the purpose of the hearing, and
   (c) give the details of the investigator's report to the licensee.

2. The licensee may bring to an Automotive Regulatory Board hearing those individuals that the licensee believes are necessary to support its case.

3. The licensee may choose to be represented at the hearing by legal counsel.

4. The Automotive Regulatory Board must provide a written decision to all concerned parties within fifteen days after conducting a hearing.

5. The licensee may appeal the decision of the Automotive Regulatory Board to
   (a) the Director of Licensing of Trades and Businesses,
   (b) the Minister of Consumer and Corporate Affairs, or
   (c) the Alberta Court of Queen's Bench.

J. Standards of Conduct for Automotive Businesses

Overview

To ensure that consumers are protected, an automotive business must meet certain basic standards. This ensures businesses also compete with one another on an even playing field. The Standards of Conduct and the Standards for Advertising are an essential part of the Committee's recommendation for a licensing program. The licence represents permission from the Automotive Regulatory Board to operate a business. Permission is given on the condition that the business agrees to operate at or above a certain basic standard.

An automotive business agrees in its licence application to operate by the standards stated in this regulation. Businesses that are operating outside of these standards will be discovered in three ways:

- through consumer complaints,
- through information provided by fellow businesses, and
- through investigations by representatives of the Automotive Regulatory Board.

An automotive business agent must understand what is in these business standards. The business agent must then make sure that the business and its employees abide by

the standards. Automotive sales businesses, automotive broker businesses, and automotive leasing businesses must employ only qualified salespersons and leasepersons. An important qualification of salespersons and leasepersons is their knowledge of the standards of conduct and advertising established by the Automotive Regulatory Board.

Standards for all Businesses

1. The automotive business must follow all federal and provincial laws, and specifically the provisions of Alberta's Unfair Trade Practices Act and Consumer Credit Transactions Act, and the federal Competition Act.

2. The automotive business must not use misleading sales techniques or misleading advertising.

3. The automotive business must not alter the odometer of a motor vehicle.

4. All agreements, contracts, and warranties used in automotive business transactions must be in plain language.

5. All contracts, warranties, and agreements used in business transactions must show the legal name of the automotive business and its Automotive Regulatory Board licence number.

   Purpose

   A person who contracts business with a licensed automotive business is entitled to know the legal name of the business with whom they are dealing.

6. Before accepting a consumer's deposit toward a purchase or service, an automotive business must give the consumer a written explanation of the conditions under which the deposit will be returned. This explanation must be signed by the consumer to show that the consumer understands the conditions.

   Purpose

   Both the business and the consumer will benefit if the conditions for acceptance or return of a deposit are specified in writing and in plain language.

7. An automotive business must keep a record in Alberta of all its business transactions. The business must keep those records for at least two years following the date the transaction took place, whether or not the automotive business ceases operations within that two-year period.

8. The automotive business must make every effort to resolve automotive complaints directly with the consumer.

9. The automotive business will be responsible for the representations the business has made to consumers about its products or services.

10. Automotive business contracts must contain the following question: "Were any promises made to you that are not written on this contract?". The question must be answered and signed by the consumer in that area of the contract.

    Purpose

    The Committee wants to make sure all agreements are in writing. They want to reduce the number of complaints that arise between a consumer

and a business about oral promises. If a salesperson makes no oral promises and the consumer signs the contract to that effect, the business will fare better when a disgruntled consumer returns later claiming that such a promise had been made.

11. If a licensed automotive business arranges to have any service or repair work done on a motor vehicle, and if that work comes under the provisions of the Apprenticeship and Industry Training Act, then the work must be performed by a licensed mechanic or an indentured apprentice. The mechanic or apprentice must be employed by a business that is properly licensed by the Automotive Regulatory Board as an automotive repair and service business.

    Purpose

    Automotive businesses want the licensing authority to make sure that all automotive businesses are licensed. One way to do this is to insist that each licensed business only have automotive work done at another licensed automotive business.

    The Apprenticeship and Industry Training Act requires that qualified tradespeople perform the automotive service and repair work on motor vehicles, recreation vehicles, and motorcycles, including work on motor vehicle bodies and collision-damaged vehicles. Having qualified persons perform the work on consumers' vehicles is essential for consumer protection. If a backyard mechanic wishes to operate a part-time business, that person will have to meet the same qualifications as any other automotive business. Automotive businesses must have automotive repair and service work done at those businesses that have met the minimum standards necessary to be licensed by the Automotive Regulatory Board.

12. A written-off vehicle must pass the inspection required under the Inspection of Written-Off Vehicle Regulation before the vehicle is sold by an automotive business to anyone other than another licensed automotive business.

13. If an automotive business is aware that a vehicle has been damaged enough to require inspection under the Inspection of Written-Off Vehicles Regulation, the vehicle must have passed that inspection before resale to anyone other than another licensed automotive business.

14. If an automotive business sells a written-off vehicle to anyone other than a licensed automotive business and the vehicle has not passed the inspection under the Inspection of Written-Off Vehicles Regulation, then the Automotive Regulatory Board will review the status of the automotive business's licence.

Standards for Sales of Motor Vehicles

15. The bill of sale for a motor vehicle must show both the salesperson's name and Automotive Regulatory Board licence number of the salesperson.

16. New cars, new light trucks, and new motorcycles displayed for sale by automotive businesses must have the manufacturer's suggested retail price (m.s.r.p.) posted on the vehicle. The m.s.r.p. must itemize all accessories and options of the vehicle plus freight and delivery charges.

    Purpose

    The manufacturers and importers of new vehicles have established a

"manufacturer's suggested retail price" for each model that they offer. Most consumers want price information made available to them so they can make an informed comparison when shopping for a new vehicle. To be useful to a consumer, that price must be broken down to its various parts such as the vehicle's accessories, options, freight charges, and delivery charges. A consumer can compare the prices suggested by the manufacturer with those offered by the businesses at which they are shopping.

17. The price of a new motor vehicle must be posted on the vehicle. Where in some instances a manufacturer's suggested retail price (m.s.r.p.) is not available or not available in $CAN, the price of the new vehicle must itemize all accessories and options of the vehicle plus freight and delivery charges.

Purpose

Recreation vehicles are usually manufactured as individual units, not on an assembly line like automobiles where thousands of the same vehicles are made. Also, many recreation vehicles are imported from the United States. Most R.V. manufacturers will identify a "manufacturer's suggested retail price" for a unit, but because the units are produced individually and because of the fluctuation in the Canadian dollar, that U.S. "manufacturer's suggested retail price" may vary from unit to unit. This happens when the m.s.r.p. is translated into Canadian dollars on the day it enters Canada at the day's U.S. dollar exchange rate.

Each new vehicle offered for sale by an automotive business must have the price posted on the vehicle with all accessories, options, freight charges, and delivery charges itemized.

18. When the term "manufacturer's suggested retail price" is used by an automotive business, the price so identified must be the manufacturer's suggested retail price.

19. If the automotive business knows that a motor vehicle
    (a) had been used before as a police vehicle, courier vehicle, bus, or taxi
    (b) had ever been in an accident that had made it structurally unsafe,
    (c) had been written-off by an insurance company and then repaired, or
    (d) had been subject to more than $5,000 worth of damage,

then when the business offers that vehicle for sale those facts must be disclosed to the consumer in a written statement posted on the vehicle. The written statement posted on the vehicle also must disclose the year, make, model, serial number, and odometer reading.

Purpose

An automotive business is in a much better position than a consumer to recognize the condition or previous use of a motor vehicle. The person who buys that vehicle must have access to all material facts about it. These pieces of information are important to the future condition and use of a vehicle.

20. Each bill of sale for a used motor vehicle or a used recreation vehicle must include the statement: "This vehicle was mechanically inspected: _____ yes ___ no." If the automotive business shows "yes" on the bill of sale, an Automotive Regulatory Board mechanical inspection certificate completed by a licensee of the Automotive Regulatory Board must be given to the purchaser with the bill of sale.

Purpose

Neither an automotive business nor an automotive salesperson should say

anything about the soundness, roadworthiness, or mechanical condition of a vehicle unless the statements can be backed up with independent proof. If they have not said anything about the mechanical condition of the vehicle, then it is up to the consumer to verify the condition of the vehicle by having the vehicle independently inspected by a licensed mechanic. If the consumer chooses not to have a vehicle inspected before purchase, the consumer must accept the consequences and possible expense of not doing so.

21. An automotive sales business is financially responsible for ensuring that each vehicle it sells to consumers is
    (a) free of liens, and
    (b) not a stolen vehicle.

22. An automotive sales business can choose whether or not to offer a warranty on a used motor vehicle. If the business offers a warranty, then it must be a written warranty in plain language, and the items the warranty covers must be clearly stated.

23. The automotive business must hold deposits under trust conditions.

Purpose

Trust conditions means that the business must hold the deposit money for the customer until the contract has been fulfilled. The money is the customer's and must be treated that way until the terms are met for which the customer gave the business the deposit.

Standards for Sales of Recreation Vehicles

24. Where an automotive business sells a recreation vehicle made up of a chassis and a superstructure of different model years, both model years must be specified on the sales contract.

Purpose

A recreation vehicle is often a combination of a chassis and a superstructure of two different model years. In the recreation vehicle industry, this happens frequently and the consumer should be made aware it.

25. Any automotive business selling a recreation vehicle converted from a van must tell the consumer that the model year of the unit is that of the van alone. Consumers may be told the model year of the conversion package, but they must be clearly told that, for registration purposes, only the model year of the van is used.

Standards for Sales of Motor Vehicles by Consignment

26. An automotive business that sells motor vehicles on consignment must give the consignor a copy of the consignment agreement when the vehicle is left with the automotive business. The consignment agreement must set out in plain language the terms and conditions of the consignment transaction.

27. All trust accounts must have a zero balance, and the interest earned on a trust account belongs to the person whose money it is.

28. An automotive business that sells motor vehicles by consignment must deposit all monies received from the sale of a consigned motor vehicle at once into a trust account. The trust account must be established in a financial institution in Alberta.

29. The consignment agreement must contain the following information:
    (a) the name, address, and telephone number of the consignor
    (b) the year, make, model, and serial number of the vehicle
    (c) a declaration of the vehicle's previous use as a police vehicle, courier vehicle, bus, or taxi
    (d) a declaration of previous damage (meaning $5,000 damage or more calculated at the retail rate)
    (e) a declaration of whether the vehicle was ever written-off for insurance purposes
    (f) the current number of kilometres shown on the odometer, information about any replacement of the odometer, plus an answer to the question "Does the odometer represent the total distance travelled by this vehicle?"
    (g) a declaration about any liens against the vehicle
    (h) a declaration about where the vehicle was last registered, the name of the last registered owner, and the date of registration by that last owner if last registered in Alberta
    (i) a plain language explanation of the payment agreement between the consignor and the automotive sales business.

30. After accepting the consignment, the automotive sales business must disclose all of the information in the consignment agreement by posting it on the window of the vehicle, except for the name, address, and telephone number of the consignor. This declaration must be posted on the vehicle as soon as the consignment agreement is signed between the consignor and the automotive sales business.

31. The automotive business must
    (a) pay out to the consignor the money held in the trust account within 21 days after the sale of the consigned motor vehicle, and
    (b) not withdraw from the trust account any commissions due from the consignor until it complies with clause (a).

32. If an automotive business accepts a vehicle to sell on consignment, and calculates the consignment fee as a percentage of the selling price of the consignment vehicle, then a copy of the bill of sale for that vehicle must be given to the consignor when the consignor receives his monies.

Standards for Leasing Vehicles

33. An automotive leasing business must disclose in writing to the person who leases a vehicle
    (a) the total amount of any payment due at the beginning of the lease;
    (b) the number, amount, frequency, and due dates of scheduled payments during the lease;
    (c) whether the person has the option to purchase the vehicle, when, and at what price;
    (d) if there is a right to end the lease contract early, and the costs and conditions involved in ending it early; and
    (e) the amount of liability or the method of determining any liabilities the person may have at the end of the lease.

34. Before a vehicle lease contract is signed, the automotive business must give to the person who leases the vehicle a written, plain language explanation of
    (a) the person's responsibility for maintenance and repair of the leased vehicle according to the manufacturer's recommendations,
    (b) the person's liability for poor maintenance and replacement of related wear items,
    (c) the maximum mileage a leased vehicle may collect during the term of the lease,
    (d) the rate charged for any excess meterage or mileage and any other associated costs,
    (e) the person's liability if ending the lease early, and
    (f) any liabilities not outlined above that the person has under the lease contract.

Standards for Businesses Providing Automotive Service and Repair

35. Before service or repair work is done on a motor vehicle, the automotive business must disclose to the consumer that the vehicle parts replaced during repair or service will be available for inspection by the consumer. If requested, and if the automotive business does not have to return those parts to the manufacturer under warranty or to a remanufacturer for rebuilding, those parts will be returned to the consumer at the completion of the repair or service.

36. An automotive repair and service business may choose whether or not to offer a warranty on a repair. When the business offers a warranty, the warranty must be in writing and in plain language. The items the automotive repair and service business will cover in a warranty must be clearly stated.

37. An automotive repair and service business must charge an insurance company acting for a consumer the same amount for parts or repairs as if the consumer were acting alone.

38. An automotive repair and service business must post in a prominent, public location the rates charged for its services.

39. When operating automotive businesses to which the Apprenticeship and Industry Training Act applies, the employment of appropriate journeymen and indentured apprentices is a condition of holding an automotive business licence.

40. Automotive service and repair businesses are responsible for the representations made by their mechanics, service writers, and estimators.

41. If a deposit is taken before repair or service work is done on a motor vehicle or a recreation vehicle, then the automotive business must hold the deposit under trust conditions.

    Purpose

    Trust conditions means that the business must hold the deposit money for the customer until the contract has been fulfilled. The money is the customer's and must be treated that way until the terms are met for which the customer gave the business the deposit.

42. If repairs or service including warranty work are done on a vehicle, then a copy of the completed work order must be given to the customer.

43. An automotive business must disclose to the customer the type of replacement motor vehicle parts that will be used in the repair. The business must disclose whether the replacement parts are
    (a) manufactured by the original equipment manufacturer (OEM parts),
    (b) manufactured by an after-market manufacturer,
    (c) reconditioned or remanufactured parts, or
    (d) used parts.

    Purpose

    Repairs done to a vehicle will affect its future value. Consumers must know what type of replacement parts are used on their vehicles. For certain repairs, some manufacturers' new vehicle warranties dictate the use of OEM parts or the warranty is voided. Original equipment manufacturer (OEM) parts are supplied by the vehicle manufacturer as replacement parts and they are identical to the part used to build the original vehicle. After-market parts are built by other companies to the same specifications as the original part. Reconditioned and remanufactured parts are parts salvaged from other vehicles that are then reconditioned by a rebuilder to be used again. Used parts are taken from other vehicles, cleaned, and installed.

    Aftermarket parts, reconditioned parts, and used parts provide an economical alternative to OEM parts, however the warranties on these parts vary and may not be the same as the warranties on OEM parts. A consumer must know the alternatives and the consequences.

Estimates

44. An automotive business engaged in repair or service work must give a written estimate to a consumer upon request, outlining the work to be performed and the charges for that work.

45. A sign stating that estimates will be provided on request and that there may be a charge for an estimate must be posted in a prominent public location at the automotive business.

46. A written estimate must clearly state the expiry date of that estimate.

47. Charges for the repair or service may not exceed the estimate by more than 10%, unless the consumer has authorized the additional work before the work is done. Telephone authorization is okay provided the business notes the date, time, and person called to get authorization.

Automotive Glass Replacement

48. Automotive businesses that replace automotive glass must replace the glass according to the specifications of the vehicle's manufacturer.

    Purpose

    Windshield installations which require urethane-based adhesives must be done in the conditions specified by the adhesives manufacturer.

Standards for Auction of Motor Vehicles

49. An automotive auction business must complete a consignment agreement with each consignor on a statutory declaration form.

50. The consignment agreement must contain the following information:
    (a) the name, address, and telephone number of the consignor;
    (b) the year, make, model, and serial number of the vehicle;
    (c) a declaration of the vehicle's previous use a police vehicle, courier vehicle, bus, or taxi;
    (d) a declaration of previous damage (meaning $5,000 damage or more calculated at the retail rate);
    (e) a declaration of whether the vehicle was ever written-off for insurance purposes;
    (f) the current number of kilometres shown on the odometer, information about any replacement of the odometer, plus an answer to the question "does the odometer represent the total distance travelled by this vehicle?";
    (g) a declaration about any liens against the vehicle;
    (h) a declaration about where the vehicle was last registered, the name of the last registered owner, and the date of registration by that last owner if last registered in Alberta;
    (i) a plain language explanation of the payment agreement between the consignor and the auction business.

51. After accepting the consignment, the automotive auction business must disclose all of the information in the consignment agreement by posting it on the window of the vehicle, except for the name, address, and telephone number of the consignor. This declaration must be posted on the vehicle as soon as the consignment agreement is signed between the consignor and the auction business.

52. After the sale, the name, address, and telephone number of the consignor will be made available to the purchaser upon request.

53. The automotive auction business must disclose before the auction sale that consignor's name, address, and telephone number is available to the purchaser after the sale when the purchaser pays for the vehicle.

54. An automotive auction business may accept consignments at any time, as long as the disclosure sheet portion of the consignment agreement is posted on the vehicle immediately after the consignment agreement is completed.

55. The automotive auction business will not pay out the consignor until 8 days has passed.

56. If the purchaser finds that any statement on the statutory declaration is false, the purchaser may return the vehicle to the auction sales business within 7 days from the date of purchase. The purchaser will receive a full refund from the automotive auction business.

57. If a statutory declaration has the word "unknown" after any item, the purchaser must accept the responsibility for whatever the true condition is unless it can be proven that the consignor knowingly withheld information.

58. The automotive auction business must place the sale money immediately into a trust account. The trust account must be established with a financial institution located in Alberta.

59. The trust account must be separate from the general revenue account of the automotive auction business.

60. The automotive auction business must record in a trust ledger the following details of each sale:
    (a) the date of the sale,
    (b) the address of the place the sale was held,
    (c) the name and address of the consignor,
    (d) the name and address of the purchaser,
    (e) the identification of the vehicle including all the information appearing in the consignment agreement,
    (f) the amount paid for the vehicle,
    (g) the amount of commission or fee paid to the auction sales business for the vehicle, and
    (h) the amount paid to the consignor and to any other person having an interest or charge against the vehicles sold.

61. The automotive auction business must pay the consignor in full between 8 and 21 days after the date of the sale.

62. The automotive auction business may not withdraw their commission or fee until the consignor is paid in full.

63. All trust accounts must have a zero balance, and the interest earned on a trust account belongs to the person whose money it is.

64. Bidding at an automotive auction must be conducted by an auctioneer who
    (a) is at least 18 years of age;
    (b) is a Canadian citizen residing in Canada for the 3 months before the sale, or a non-resident legally admitted to Canada;
    (c) is a member of the Auctioneers Association of Alberta; and
    (d) has successfully completed an auction course recognized by the Automotive Regulatory Board, or has been an auctioneer in another jurisdiction for the 12 months before the sale.

Standards for Salvage Disposal Sales

65. An automotive salvage business must sell or auction motor vehicles only to licensed automotive businesses.

Purpose

An **automotive salvage business** is one which buys or brokers damaged vehicles including those that insurance companies have written-off. Written-off means the company has determined the vehicle is too expensive to repair when compared to the book value or market value of the vehicle. The insurance company then "writes-off" the vehicle, which means it pays the insured owner the book value of the vehicle as settlement of the claim and the insurance company becomes the owner of the damaged vehicle. The vehicle may not be useless though, since a minor accident may "write-off" an otherwise sound ten-year-old car. Though the insurance company has decided it is not worth the cost to the company to repair the vehicle for the former owner, the vehicle may still have value. Automotive salvage businesses sell or broker damaged vehicles to automotive businesses with the means to repair or recycle them.

66. A person other than a licensed automotive business who wishes to buy a written-off vehicle may only do so if that vehicle has been approved for use in training at an educational institution that teaches automotive repair.

67. The person buying the written-off vehicle must have a contract with the educational institution to have the repair work completed.

68. A salvage disposal business may sell to that person only after receiving a copy of that contract.

K. Standards of Advertising for Automotive Businesses

General Advertising Standards

1. The Automotive Regulatory Board licence number must be included in each advertisement by an automotive business that is produced in printed form.

2. When a specific product or service is advertised, it must be in stock or available enough to meet reasonable demand at the time the advertisement is placed.

3. If there is a limited quantity of advertised products or services available at an advertised price, that number must be clearly disclosed in the advertisement.

4. A vehicle, product, or service must not be advertised if it is not available at that price.

5. An advertisement must not state nor imply that a warranty exists if it does not.

6. An advertisement must not state nor imply that there is no GST applicable to the sale if there is.

7. An advertisement must not use the word "wholesale", which means the price at which a businessperson buys a product to sell it to the public or for resale.

8. If an advertisement includes the word "repossession" or phrase "take over payments", then they must be true.

9. If an automotive business implies in an advertisement that favourable or specific credit terms are available, then they must be equally available to all persons on approval of credit.

10. If an advertised product or service can be purchased at a lesser price without the advertised equipment, options, accessories, products, other merchandise, or services, then the product or service must not be advertised as free.

11. Any advertised statements about vehicles and advertised offers of vehicles must be clearly stated and true. In particular, all statements about the year, make, model, type, condition, equipment, mileage, price, finance charges, taxes, and other terms must be clearly stated and true.

12. Any advertised statements about products or services, and advertised offers of products or services, must be clearly stated and true. In particular, all statements as to identification, condition, equipment, comparisons, price, finance charges, and other terms must be clearly stated and true.

13. Advertising done by an automotive business must not include the terms listed below or similar statements unless the automotive business systematically monitors competitors' actual selling prices and can substantiate the claims. The terms are
    (a) "our prices are guaranteed lower than elsewhere,"
    (b) "lowest price guaranteed,"
    (c) "we guarantee to sell for less,"
    (d) "we give $x more in trade than any other dealers,"
    (e) "write your own deal,"
    (f) "name your own price,"
    (g) "name your own monthly payments."

14. The price identified as the "manufacturer's suggested retail price" in an advertisement by an automotive business must be the manufacturer's suggested retail price.

15. An automotive business may not use the terms listed below or the like, since the actual net cost to an automotive business is dependent on variables not known to the public. The terms are
    (a) "cost plus $x,"
    (b) "$x over invoice price,"
    (c) "at cost below invoice."

16. All restrictions or disclaimers in advertisements by an automotive business must be in plain language and easily readable.

Advertising of Motor Vehicles

17. If a specific vehicle is advertised for sale or lease, then it must be in stock and available for sale or lease at the time the advertisement is placed.

18. If a vehicle or vehicles are advertised for sale or lease, then the year, make, model, and stock number or serial number must be included in the advertisement. The advertisement also must state whether the vehicles are new or used.

19. When an automotive business advertises a vehicle for sale and the business knows that the vehicle was used before as a taxi, police vehicle, courier vehicle, or bus, then the vehicle must be so identified in the advertisement.

20. The prices advertised for vehicles must be the maximum amount the customer must pay to get the advertised vehicle, not including the amount for federal or provincial taxes.

21. An automotive business must follow the Consumer Credit Transactions Act as it applies to the advertising of vehicles for sale or lease. The total price of the financing transaction and the total of any cash price must be prominent in the price advertisement and easily readable.

22. An advertisement by an automotive business must not offer a specific trade-in allowance for a used vehicle.

23. "Manufacturer's suggested retail price," "suggested list price," "list price" and similar terms may be published for information in advertisements by an automotive sales business provided the advertisement does not refer to a savings, discount, special, or percentage off or to any other words of similar meaning,

unless that business or other businesses have sold a reasonable number of the advertised vehicle at the manufacturer's suggested retail price.

24. An advertisement by an automotive business for a used vehicle must not refer to savings. Reference to a price advertised before may be made provided the automotive business had placed a regular advertisement for that specific vehicle immediately preceding the present sale for a reasonable period.

Advertising of Recreation Vehicles

25. A recreation vehicle may not be advertised as equipped for winter use unless the extent of winterization is clearly defined in the advertisement.

26. An automotive business may not advertise nor sell a new recreation vehicle unless it is built according to the requirements of the Canadian Standards Association (CSA).

27. Any used recreation vehicle advertised as CSA-approved must carry the proper CSA approval stickers.

Advertising Vehicles for Lease

28. All offers to lease vehicles must be advertised according to the Consumer Credit Transactions Act.

V. COMPLAINT RESOLUTION

Overview

In what manner should consumer complaints about a licensed business be handled? There must be an objective and fair process provided to deal with consumers' complaints. The Automotive Working Committee has recommended a balanced approach for complaint resolution that puts consumers and businesses on an equal footing. The complainant can protest to an organization made up of, in part, that business's peers. Those peers must make sure that the marketplace is operating fairly, and that all participants are playing by the same rules.

The Committee has designed a system in which the consumer has a number of options. After trying to settle the problem directly with the business, an unsatisfied consumer can turn to the Board for help. A Board representative will try to reconcile the two parties informally. If that does not help, the consumer has access to a mediation process or an arbitration process. Mediation and arbitration are not costly nor time-consuming to either the consumer or the business, especially when compared to legal proceedings. To be effective, a complaint resolution process has to be fair and workable. A system where both the consumer and the business have the right to appeal decisions is also necessary.

Mediation and Arbitration

There are two dispute resolution processes that can be used instead of the court system. **Mediation** is a process in which two or more parties refer their dispute to a mediator. A mediator will help those parties reach a mutually-agreeable settlement. A mediator is a facilitator. The mediator's role is to help the parties identify the issues, and to help them talk and negotiate. The mediator will not impose a settlement upon them, nor decide the issue for the parties. The mediation process usually ends with an agreement; however, if there is no agreement, the parties are free to use any other dispute resolution process that they wish (arbitration or legal proceedings).

Arbitration is a process in which two or more parties refer a dispute to an independent arbitrator and agree to be bound by the arbitrator's decision. The decision of an arbitrator (called the award) is binding upon both of the parties if the arbitration was conducted according to the Alberta Arbitration Act. The arbitrator's award can then be enforced as a judgment or order of the Court of Queen's Bench. The arbitration process proposed by the Automotive Working Committee is outlined below.

As dispute resolution processes, arbitration and mediation provide many benefits over the traditional justice system. Disputes are resolved much more quickly than taking a case to court. Mediation and arbitration proceedings are conducted in private rather than in a public courtroom. Disputes settled through mediation or arbitration usually cost far less than disputes that are taken to court.

A. What is a Complaint?

1. **Complaint** means a formal allegation by a consumer that a licensed automotive business has wronged the consumer.

2. The Automotive Regulatory Board will accept and may investigate consumer complaints against its licensees.

3. The Automotive Regulatory Board will not act for another business in a business's grievance about a transaction with a licensee.

4. The Automotive Regulatory Board will record and may investigate allegations from its licensees about violations of the regulations by other businesses.

B. Process For Handling Complaints

1. The consumer's complaint should normally be given in a written statement to the Automotive Regulatory Board. When necessary an oral statement can be given to a representative of the Board.

2. An Automotive Regulatory Board representative will informally try to resolve the complaint in a way that both the consumer and the licensee find acceptable. The representative will summarize all particulars about each party's viewpoint in a report to the Board.

3. If the Automotive Regulatory Board agrees at this point that the consumer has a valid complaint against a business, then the consumer will be offered two other methods to try to resolve the complaint. These two methods will be either sponsored or authorized by the Board and are:
   (a) mediation, where the consumer and licensee agree to submit their dispute to the mediation process under the guidance of a non-industry mediator appointed by the Automotive Regulatory Board, or
   (b) arbitration, where the consumer and the licensee submit their dispute to arbitration. The arbitration will be conducted under the provisions of the Arbitration Act of Alberta.

4. A consumer also may choose a third dispute resolution method: taking the matter to court. The Board will not help consumers take a matter to court. If consumers choose court litigation, consumers must proceed on their own.

5. When the consumer chooses the Board's mediation process, an independent mediator will be selected by the agreement of the consumer and the business from a list of mediators registered with the Alberta Arbitration and Mediation Society.

6. When the consumer chooses the Board's arbitration process, the licensee is obliged to enter arbitration also. The licensee is required as a condition for getting an automotive business licence to settle otherwise-unresolved disputes through arbitration.

7. When a consumer chooses the Board's arbitration process, an independent arbitrator will be selected by the agreement of the consumer and the business from a list of arbitrators registered with the Alberta Arbitration and Mediation Society.

C. Rules For Mediation

1. The mediator will summarize the results of the mediation in a report to the Automotive Regulatory Board.

D. Rules For Board-sponsored Arbitration

1. An arbitration hearing must begin within one week after the licensee is notified of the consumer's intent to go to arbitration.

2. The arbitrator must communicate with the consumer and the licensee only in each other's presence. All written communication by the arbitrator to either party must be copied to each.

3. The arbitration hearing will be held at the offices of the Automotive Regulatory Board or at some other suitable place selected by the arbitrator.

4. The arbitration hearing will be held in private.

5. The arbitrator's decision will be communicated to the consumer, the licensee, and the Automotive Regulatory Board within two weeks of the final hearing.

6. The decision (called an award) must be in writing, must outline the reasons the arbitrator had for the decision, and must specify the date for payment of the award.

E. Payment of an Arbitration Award

1. If the consumer and licensee settle their dispute before the arbitration procedure is completed, the arbitrator will formalize their agreement in an award.

2. When an arbitrator makes a financial award to the consumer, the licensee must pay the consumer the amount of the award within fifteen days of the date specified by the arbitrator.

3. If the licensee does not pay the consumer the amount of the award within fifteen days, the Automotive Regulatory Board will pay the consumer on the licensee's behalf from the Automotive Consumers' Compensation Fund.

4. All awards paid to the consumer by the Automotive Regulatory Board for the licensee must be repaid to the Board by the licensee within thirty days of the Board paying the consumer, unless the licensee has made other arrangements with the Board. Interest at the prime rate plus 3% will be charged on any outstanding balance after thirty days.

VI. COMPENSATION FUND

Overview

The Automotive Working Committee decided that establishing a compensation fund paid for by the licensees was the most effective consumer compensation system to adopt. Consumers who lose money as a result of unfair dealings by an automotive business will have access to compensation for their financial loss. The administration of this compensation fund will be delegated to the regulatory board.

The compensation fund will be available only to consumers who deal with licensed automotive businesses. Consumers who deal with unlicensed businesses will not have access to the Compensation Fund. The fund will be set up to protect the consumers who deal with licensed automotive businesses in Alberta. Businesses that deal with licensed automotive businesses and end up with financial losses will not have access to nor a claim on the compensation fund.

A. Creation Of A Compensation Fund

1. The Automotive Regulatory Board will create a compensation fund to provide redress to consumers who are financially disadvantaged in transactions with licensed automotive businesses.

2. The compensation fund created will be named the Automotive Consumer's Compensation Fund.

3. The principal amount in the Fund will be at least $1,000,000.

4. Funds for the Automotive Consumer's Compensation Fund will be provided by all licensed automotive businesses.

5. The Automotive Regulatory Board will hold all money credited to the Automotive Consumer's Compensation Fund in trust.

Purpose of the Fund

6. Only a consumer who transacted business with a licensed Alberta automotive business may file a claim against the Automotive Consumer's Compensation Fund.

7. The purpose of the Automotive Consumer's Compensation Fund is to repay in whole or in part a consumer's direct financial loss that resulted from a transaction with a licensed automotive business.

8. To apply for compensation, a consumer must show one of the following to be true:
   (a) a consumer has a mediation agreement and the licensee has not paid the consumer within fifteen days of the date specified in the agreement, or
   (b) a consumer has won an arbitration award and the licensee has not paid the consumer within fifteen days of the date specified by the arbitrator, or
   (c) a consumer has a court judgment against a licensed automotive business for
      i) theft,
      ii) fraud,
      iii) conversion,

iv) default,
v) misrepresentation,
vi) bankruptcy,
vii) breach of trust, or
viii) contravention of the Act or regulation.

9. The Automotive Regulatory Board may set a compensation award for one or more consumers if the Board determines that a licensee's contravention of the Act or regulation has resulted in a direct financial loss to a consumer.

10. The Board's compensation award can be paid to a consumer without any other proof than its own investigation.

11. The Automotive Consumer's Compensation Fund is not meant to provide compensation to cover disputes about the quality of vehicles sold, auctioned or leased, nor to cover the quality of service or repair work performed on vehicles.

Levies for the Fund

12. The Automotive Regulatory Board will collect money for the Automotive Consumer's Compensation Fund by way of a compensation fund levy on each automotive business to be licensed.

13. The amount of the compensation fund levy will be $250. An automotive business may find it necessary to pay this levy in two instalments. The instalments will be $130 each. The first instalment must be received before the licence is first issued, and the second instalment must be received before the licence is renewed.

14. A licensed automotive business will not be assessed more than one compensation fund levy unless
    (a) its licence was revoked, suspended, or expired, and it is reapplying for a licence, or
    (b) the Minister of Consumer and Corporate Affairs approves an extraordinary levy to replenish the Fund.

15. The Board must immediately deposit the money collected under such a levy in an Automotive Consumer's Compensation Fund trust account with a trust company located in Alberta.

16. Any income from the investment of the Fund also will be credited to the Automotive Consumer's Compensation Fund.

17. The monies of the Automotive Consumer's Compensation Fund must be kept separate from any other money of the Automotive Regulatory Board.

18. Whenever the amount of the Automotive Consumer's Compensation Fund falls below $750,000, then the Automotive Regulatory Board must immediately inform the Director of Licensing of Trades and Businesses.

19. If the amount of the Automotive Consumer's Compensation Fund is less than $750,000, the Automotive Regulatory Board may ask that the Minister of Consumer and Corporate Affairs to approve an emergency levy on licensed automotive businesses to replenish the Automotive Consumer's Compensation Fund.

20. Any future extraordinary levy to make up a shortfall in the Fund will be levied on a prorated basis against those categories with the claims.

B. Investment And Insurance

1. The Automotive Regulatory Board may invest any part of the Automotive Consumer's Compensation Fund in any class of securities in which trustees are permitted to invest funds under the Trust Companies Act.

2. The Automotive Regulatory Board will insure the Automotive Consumer's Compensation Fund against any extraordinary claim or loss and the costs of such insurance will be paid from the Automotive Consumer's Compensation Fund, though a claim or loss to the Fund may be the result of a decision of the Automotive Regulatory Board.

3. When the income from the investment of the Automotive Consumer's Compensation Fund exceeds the administrative costs associated with the Fund, the excess money will be used to repay to the operating revenue of the Automotive Regulatory Board the costs of
   (a) mediator fees,
   (b) arbitrator fees, and
   (c) education projects.

   Excess money is defined as the amount in the fund over $1,000,000.

4. The income from investing the Automotive Consumer's Compensation Fund should be enough to pay the administrative costs associated with the Fund. If it is not enough, the Automotive Regulatory Board with the approval of the Minister may collect money by an emergency levy on all automotive businesses to pay those administrative costs.

C. Payment From The Compensation Fund

Mediation

1. When a consumer attains an agreement through mediation and the licensed automotive business does not pay within fifteen days of the date specified in the agreement, the consumer may apply to the Automotive Regulatory Board for compensation from the Automotive Consumer's Compensation Fund.

Arbitration

2. When a consumer has been through the Automotive Regulatory Board arbitration process, and the arbitration award has been made to the consumer, the consumer must be paid that award by the licensee within fifteen days after the date specified in the award.

3. If more than fifteen days passes without the consumer receiving payment, the award will be paid by the Automotive Regulatory Board from the Automotive Consumer's Compensation Fund on the licensee's behalf.

Judgment

4. The consumer may apply to the Automotive Regulatory Board for compensation

from the Fund when a consumer obtains a court judgment against a licensed automotive business, a licensed automotive salesperson, or a licensed leasing agent. The judgment must be based on

(a) theft,
(b) fraud,
(c) conversion,
(d) default on a contract,
(e) misrepresentation,
(f) bankruptcy,
(g) breach of trust, or
(h) contravention of the Act or regulation.

Applications for Payment

5. An application by a consumer for compensation from the Automotive Consumer's Compensation Fund must be accompanied by a statutory declaration that states
   (a) that the consumer's claim has not been satisfied,
   (b) the amount of the compensation being requested, and
   (c) that there will be no appeal of the judgment or award.

6. The time limits for applications for compensation are as follows:
   (a) at least fifteen days after the date specified in a mediation agreement when the agreed amount remains unpaid;
   (b) at least fifteen days after the date specified in an arbitration award when the award remains unpaid;
   (c) at least thirty days after a judgment has become final in the Court of Queen's Bench;
   (d) within one year of the date that the mediation agreement, arbitration award, or judgment was made.

7. The Board must tell the Director of Licensing of Trades and Businesses when it makes a payment from the Automotive Consumer's Compensation Fund.

Maximum Claim

8. When the Automotive Regulatory Board has decided to provide compensation to a consumer, the Automotive Regulatory Board will pay the amount of the claim to a maximum of $10,000.

9. The Board will record the claim in the licence category under which a claim is paid.

10. When a consumer is entitled to compensation under this regulation and the consumer receives a payment from the Automotive Consumer's Compensation Fund, the Automotive Regulatory Board is assigned the rights, remedies, and securities to which the consumer was entitled against the defaulting automotive business up to the amount paid from the Automotive Consumer's Compensation Fund. The Automotive Regulatory Board may pursue the rights, remedies, and securities for itself.

Status of Business Licence

11. When an award is paid for a licensed business by the Board, the Board will automatically question the status of the business's licence.

12. All amounts paid by the Automotive Regulatory Board for the licensee must be repaid to the Board by the licensee within thirty days of the Board paying the consumer, unless the licensee has made other arrangements with the Board. Interest at the prime rate plus 3% will be charged on any outstanding balance after thirty days.

13. If an award is appealed, the award money must be held in trust until the appeal is completed.

14. A licence will not be granted or renewed if money is owing to the compensation fund.

D. Annual Report And Investigation

1. By April 15 of each year, the Automotive Regulatory Board must submit a report of all transactions involving the Automotive Consumer's Compensation Fund during the previous calendar year to the Director of Licensing of Trades and Businesses.

2. The Automotive Regulatory Board must provide the Director of Licensing of Trades and Businesses with financial statements and other information about the Automotive Consumer's Compensation Fund upon request.

3. The Director of Licensing of Trades and Businesses may inquire into or investigate any concern about the Automotive Consumer's Compensation Fund.

E. Winding-up Of The Fund

1. If the Director of Licensing of Trades and Businesses considers it in the public interest to do so, then he may order that the Automotive Consumer's Compensation Fund be wound up.

2. If the Automotive Consumer's Compensation Fund is wound up, then each licensed automotive business must provide the Director of Licensing of Trades and Businesses with security acceptable to the Director before it continues to conduct business.

3. The monies remaining in the Automotive Consumer's Compensation Fund must be distributed among those automotive businesses that were licensed at the time the Director of Licensing issued the winding-up order.

F. Bylaws

1. The Automotive Regulatory Board must not transact any business in relation to the Automotive Consumer's Compensation Fund unless there are approved bylaws in place.